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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

REPUBLIC OF THE CONGO

1. The Committee considered the state of implementation by the Republic of the Congo of the economic, social and cultural rights contained in the International Covenant on Economic, Social and Cultural Rights at its 16th and 17th meetings, held on 5 May 2000 (twenty-second session), and adopted, at its 22nd meeting, held on 10 May 2000, the following concluding observations.

A. Introduction

2. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

3. Under the reporting system established by the Covenant States parties report to the competent monitoring body, i.e. the Committee on Economic, Social and Cultural Rights, and through it to the Economic and Social Council, on the measures which have been adopted, the progress made, and the difficulties encountered in complying with the rights recognized in the Covenant. Non-compliance by a State party with its reporting obligations, in addition to constituting a breach of the Covenant, creates a serious obstacle to the fulfilment of the Committee's functions. Nevertheless, the Committee still has to perform its supervisory role, and it must do so on the basis of all reliable information available to it.

4. Hence, in situations where a Government has not supplied the Committee with any information on its compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends, by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a reporting State party and the Committee will provide an opportunity for the Government to present its own views and to seek to refute any criticism, and to demonstrate to the Committee that its policy conform to the requirements of the Covenant.

5. While fully understanding the difficulties the Republic of the Congo is presently encountering in its efforts to comply with its reporting obligations under the Covenant, the Committee recalls that the Republic of the Congo has been a party to the Covenant since 5 January 1984 and has not yet submitted its initial report.

6. The Committee expresses its appreciation for the presence of a high-level delegation on 5 May 2000, which engaged in a constructive dialogue with the Committee during two meetings. The Committee also appreciates the openness and candor with which the delegation replied to questions from the Committee members, and its willingness to provide information to the best of its ability. Nevertheless, the Committee wishes to emphasize that the presence of the delegation and its dialogue with the Committee, in the absence of a written report, cannot be considered as compliance with the State party's obligation to submit a written report under articles 16 and 17 of the Covenant.

7. Bearing in mind the difficult general situation in the Republic of the Congo, the Committee deems it necessary to confine its concluding observations to an assessment of its dialogue with the delegation with respect to the current status of economic, social and cultural rights in the country. The Committee further considers that, in view of the failure of the State party to submit a written report, as well as the need for technical assistance to be offered to the State party to enable it to comply with its reporting obligations, the Committee's concluding observations can only be of a very preliminary nature.

B. Factors and difficulties impeding the implementation of the Covenant

8. The Committee takes note of the violent political unrest that has plagued the Republic of the Congo intermittently since its independence. The consequences of this political unrest have been disastrous for the situation in the country in general, and on the enjoyment of economic, social, cultural, civil and political human rights in particular.

9. The Committee also takes into account the massive population displacements caused by the violence during the 1997-1999 civil war, which seriously disrupted the functioning of the State public services, economic activity and social stability. The damage inflicted by the civil war has been tentatively estimated at approximately 55 per cent of the gross domestic product projected for 2000.

10. The Committee is also aware of the negative impacts of the fluctuation in oil revenues and of the State-led development policies on the present financial situation of the Republic of the Congo.

11. The Committee is particularly concerned that the external debt was estimated to be over US$ 5 billion at the end of 1998 which, for a population of 2.9 million people, amounted to a per capita debt of almost US$ 1,700.

C. Positive aspects

12. The Committee notes with satisfaction that two agreements to cease hostilities were signed between the Government and the various militia groups in November and December 1999, and expresses the hope that the process of national reconciliation that has been initiated will bring about political and social stability and will allow economic, social and cultural rights to be respected to a greater degree.

13. The Committee commends the State party for its ratification in November 1999 of a considerable number of basic International Labour Conventions: the Labour Inspection Convention, 1947 (No. 81), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention (No. 105), Discrimination (Employment and Occupation) Convention, 1957 (No. 111), the Minimum Age Convention, 1973 (No. 138) and the Occupational Safety and Health Convention, 1981 (No. 155).

14. The Committee expresses its satisfaction at the return to their places of origin of a large number of internally displaced persons and hopes that this process will continue in a peaceful manner.

15. The Committee notes with appreciation that at the request of the Government, specialized agencies such as the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO), the World Health Organization (WHO), the World

Bank and the International Monetary Fund (IMF), as well as the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme (UNDP), are assisting the Republic of the Congo in addressing its innumerable problems, as follows

(a) In 1998, the IMF decided to provide the Congo with a special post-conflict recovery credit of US$ 10 million, the IMF also indicated that health, education and social spending were at the top of the expenditure priority list,

(b) WHO has undertaken a number of humanitarian activities relating, inter alia, to the following emergency epidemiological surveillance in the 21 areas with internally displaced persons in Brazzaville, technical support for water and sanitation and for the provision of essential medicines, and technical support for and provision of safe blood supplies,

(c) FAO is presently carrying out four operational projects in the Congo, of which three are technical cooperation programmes funded by FAO, relating to the provision of urgent agricultural inputs, rehabilitation of agricultural statistical systems and supporting legislation on the fauna The fourth project is concerned with the provision of urgent agricultural inputs and support for coordination, funded by the Government of Sweden

D Principal subjects of concern

16 The Committee expresses its deep concern regarding the abrogation of the Constitution in October 1997 by the Government of President Denis Sassou-Ngueso, resulting in a legal vacuum which has been detrimental to the enjoyment of economic, social and cultural rights by the citizens of the Republic of the Congo The "Fundamental Act", which was adopted to replace the Constitution, cannot guarantee the enjoyment of these rights

17 The Committee is equally concerned about discrimination against women Marriage and family laws overtly discriminate against women (for instance, adultery is illegal for women but, in certain circumstances, not for men, while the Legal Code provides that 30 per cent of the deceased husband's estate goes to the wife, in practice the wife often loses all rights of inheritance) Domestic violence, including rape and beatings, is widespread but rarely reported, and there are no legal provisions for punishing the offenders Furthermore, despite the provision in Congolese legislation that endorses the principle of equal pay for equal work, women in the formal sector are under-represented and encounter discriminatory promotion patterns Women in rural areas are especially disadvantaged in terms of education and employment conditions, including wages

18 With regard to ethnic minorities, the Committee has discerned a similar pattern The Pygmies do not enjoy equal treatment in the predominantly Bantu society Pygmies are severely marginalized in the areas of employment, health and education, and are usually considered socially inferior

19 The Committee is gravely concerned about a number of labour-related issues in the Congo As a result of the abrogation of the Constitution, many constitutional provisions concerning the right to work and to just and favourable conditions of work are not in effect, such

as provisions prohibiting forced and bonded labour by children under the age of 16 and those providing for reasonable pay, paid holidays, periodic paid vacation and legal limits on allowable hours of work.

20. The Committee is also concerned about the negative effects on the food supply of the violence, population displacements and disruption of production and marketing activities, as noted by FAO. Import requirements for the year 2000 in respect of wheat, rice and coarse grains are expected to be approximately 140,000 tonnes, accounting for 97 per cent of total consumption. The United Nations Development Programme, Human Development Report, 1999 indicates that the daily per capita intake of food in the Congo is 2,107 calories, which is just below the level for countries categorized as having a low human development ratio (2,145 calories). The proportion of the undernourished among the population has increased from 29 per cent in the period 1979-1981 to 34 per cent in 1995-1997.

21. The Committee expresses its grave concern regarding the decline of the standard of health in the Congo. The AIDS epidemic is taking a heavy toll on the country, while the ongoing financial crisis has resulted in a serious shortage of funds for public health services, and for improving the water and sanitation infrastructure in urban areas. The war has caused serious damage to health facilities in Brazzaville. According to a joint study by WHO and UNAIDS, some 100,000 Congolese, including over 5,000 children, were affected by HIV at the beginning of 1997. More than 80,000 people are thought to have died from AIDS, with 11,000 deaths reported in 1997 alone. Some 45,000 children are said to have lost either their mother or both parents as a result of the epidemic.

22. In addition, the Committee is concerned that as a result of the violence and the ensuing massive displacements, epidemics of diseases such as cholera and diarrhoea have occurred. Furthermore, owing to the disruption to the infrastructure of the country, including transportation and communications, humanitarian aid organizations have limited access to displaced groups outside Brazzaville.

23. The Committee is profoundly dissatisfied with the education system in the Congo. Although the Congo used to have quite a developed education system, that has seriously deteriorated as a result of economic mismanagement, the shortage of resources and political unrest. According to the delegation, there are fewer children enrolling in school, a shortage of teachers and teaching materials, and the school buildings are in a deplorable state.

E. Suggestions and recommendations

24. The Committee draws the State party's attention to the fact that the Covenant creates a legal obligation for all States parties to submit their initial and periodic reports and that the Republic of the Congo has been in breach of this obligation for many years.

25. The Committee urges the State party to adopt a Constitution, in order to ensure that the people of the Republic, and particularly the most vulnerable and marginalized groups of society, enjoy their economic, social and cultural rights. It should also take appropriate measures, to guarantee, inter alia, the prohibition of discrimination, the elimination of forced or bonded labour, particularly of children under 16 years of age, and conditions for the enjoyment of the

right to work, such as equal pay for equal work for men and women. The Committee would like to point out that these issues should be brought to the attention of ILO, with which the Government of the Congo is presently negotiating concerning follow-up measures to recently ratified ILO Conventions and possible technical cooperation programmes.

26. The Committee urges the State party to address the inequalities affecting women in society with a view to eliminating them, inter alia by adopting and enforcing appropriate legislative and administrative measures.

27. The Committee also urges the State party to adopt measures in order to fully integrate Pygmies into Congolese society, so that they may fully enjoy their economic, social and cultural rights.

28. The Committee strongly urges the State party to pay immediate attention to and take action with respect to the grave health situation in its territory, with a view to restoring the basic health services, in both urban and rural areas, and to preventing and combating HIV/AIDS and other communicable diseases such as cholera and diarrhoea. The Committee also encourages the Government to work closely with WHO and UNAIDS in its efforts to cope with these problems.

29. The Committee urges the State party to pay due attention to the rehabilitation of the educational infrastructure by allocating the necessary funds for teachers' salaries, teaching materials and school building repairs. It also recommends that the State party withdraw its reservation to article 13, paragraphs 3 and 4, of the Covenant.

30. In accordance with articles 2 (1) and 23 of the Covenant, the specialized agencies are invited to provide the Committee with supplementary information and comments relating to the status and enjoyment of economic, social and cultural rights in the Republic of the Congo.

31. The Committee encourages the State party to consult with UNDP and other appropriate agencies and programmes about the availability of advisory services and technical cooperation in relation to the formulation and implementation of a coherent and comprehensive plan of action for the promotion and protection of human rights. Such a plan should include effective mechanisms for monitoring and evaluating its realization.

32. The Committee supports the request by the Government addressed to FAO for a Special Programme for Food Security (SPFS) to facilitate access to food through small-scale low-cost agricultural projects. The Committee notes that a new project formulation mission is planned for the near future to support the national team in the initial preparations for such a programme. The Republic of the Congo can also take advantage of the FAO South-South Cooperation Initiative, which involves the exchange of knowledge, expertise and experience between developing countries.

33. The Committee recommends that the Government of the Republic of the Congo avail itself of the advisory services of the Office of the High Commissioner for Human Rights so that it may submit, as soon as possible, a comprehensive report on the implementation of the Covenant in conformity with the Committee's revised guidelines and with particular emphasis on the issues raised and concerns expressed in the present provisional concluding observations.

34. The Committee looks forward to the submission of the initial report by the Republic of the Congo and hopes that the constructive dialogue with the Committee, as well as the information provided by the various specialized agencies and programmes, will be of use to the Government in complying with its obligations as a State party to the Covenant.

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